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February 2, 1938

Mr. John D. Quinn,
State Engineer,
Cheyenne, Wyoming.

Dear Mr. Quinn:

REL: BURNTFORK DISTRIBUTION

This will acknowledge receipt of your letter of January 29, also a former letter of December 3, 1937 together with enclosures - all relating violations affecting water administration alleged to have been perpetrated by one D. O. Jensen.

I have gone into this matter rather carefully, more so than is usual, for the reason that not only does it involve an interstate stream, but it requires, to a very great degree, acquiescence of the Attorney General in whatever action is taken by the State Engineer since, under the law, the Attorney General is the State Engineer's legal adviser. I am sure you know, as does the water users and Mr. Miller, that I have gone, and will still go to any reasonable limit to settle the controversy and particularly to restrain Mr. Jensen from unlawful acts in the taking of water in Utah to the detriment of Wyoming users. For this reason in 1934, under an agreement with Mr. Burritt, your predecessor, and the water users in both Utah and Wyoming, I secured half of the funds from FERA for use in adjudicating the water rights on Burntfork creek in both states. The water users provided money required by FERA for insurance but by reason of the fact that Mr. Burritt failed to obtain a similar sum of money as that provided by the Utah State Engineer, this project came to naught. Also in 1935, at the request of certain water users who were residents of Wyoming, I caused a temporary order to be issued by the district court of Summit county in Utah, restraining Jensen from interfering with the distribution of water by the Water Commissioners. Upon violation of the temporary restraining order, the court ordered Jensen arrested in 1936 and he was released upon furnishing bond. In that instance the Wyoming water users who came to Utah as witnesses against Jensen, submitted bills to me for payment, involving time and expense, which was extremely embarrassing for the reason that I had no funds with which to reimburse them since it involved legal proceedings on an interstate stream, for which no money has been appropriated.

Now comes another alleged violation by Mr. Jensen on Burntfork creek for the season of 1937. It is asked that since the act was committed in Utah and witnesses are available to make a case, that I do something. I am also willing, in this case, to proceed, but the Attorney General advises me that since there was no Water Commissioner on Burntfork appointed for 1937, the recent acts of Jensen are not in violation of the temporary restraining order now in force. It would appear impossible, therefore, for me to proceed as your people would have me, and as I would do if it were legally possible, if and when, of course, the expenses incurred by Wyoming people in the way of witnesses, etc. would be paid by them.

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STATE ENGINEER

F. H. Humphreys

Yours very truly,

With kindest personal regards, I am

all good faith.

Jensen is still amenable to the Utah court for any act he committed at the time he was formerly arrested. We stand ready to prosecute him for this in

this matter.

The last above is offered as a suggestion in the absence of something better. If it is not workable it is proposed that the State Engineers and the Attorney Generals of both states confer at some point convenient to the parties affected and decide upon some course of action. Please be assured of my co-operation in such a plan, or in any other that will bring about a solution of

he could.

Jensen be handled most effectively in the Wyoming court? It is our opinion that circumstances, and if the theory of the Attorney General be sound, could not Mr. the injunction, he could be punished in Wyoming for contempt. Under such circumstances from Burntrock creek and he should go into the State of Utah and violate court in Wyoming would enjoy Jensen from interfering with the distribution of irrigated from Burntrock creek is in Wyoming. He advises that if the district in Utah; that all the complainants are Wyoming residents and most of the land advises that since Jensen is a resident of Wyoming and is difficult to serve as a result of our discussion in this matter, the Utah Attorney General

forces.

courts would be of a temporary nature, also difficult if not impossible to enforce the rights adjudicated. Until this is done any relief obtained from the Utah tion will be given careful consideration and early effort will be made to have and the controversies. These attorneys have assured us, however, that the ques- tions arising over jurisdiction from the interstate character of the waters Burntrock creek. The only delay occasioned to this time has been through dif- the Federal Court for the adjudication of Jensen's rights to the waters of toms representing Jensen, and finds that this firm is preparing a suit in The Attorney General has conferred with Moyle and Moyle, Salt Lake at-

Mr. John D. Quinn,
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